

UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS

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YVETTE LOCKHART-BEMBERY,

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Plaintiff

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v.

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\* C.A. NO. 04-10581-NMG

TOWN OF WAYLAND POLICE DEPARTMENT,

\*

ROBERT IRVING, in his capacity as CHIEF OF

\*

THE WAYLAND POLICE DEPARTMENT and

\*

DANIEL SAURO,

\*

\*

Defendants

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**OPPOSITION TO  
DEFENDANT'S MOTION IN LIMINE TO  
EXCLUDE ANY REFERENCE TO THIS CASE  
AS A POLICE STOP**

Now comes the plaintiff and states the following in opposition to the defendants' motion to exclude any reference to this case a police stop:

The defendants cannot avoid calling something by its proper name. Defendants cannot compel the plaintiff to describe the evidence the way defendants see it. Plaintiff is entitled to present her view of what happened. Defendants seek to deny the facts and rename what happened in a way that ignores the facts as pled, preventing plaintiff from presenting her claim. That is inappropriate.

When defendant Sauro ordered the plaintiff to move her car further off the road or he would have the car towed, that was an order. He was not offering her assistance or aid. He was not helping a distressed motorist. He was ordering her to move her car. At that point, she was not free to leave the area, without suffering consequences of defendant Sauro's command.

When a police officer orders a civilian to do something, that is a "stop", as the civilian

is not free to leave. Defendants are not entitled to prevent plaintiff from presenting her case.

Thus, while the defendants may desire to call it something else, the plaintiff is entitled to refer to the police stop as a police stop.

Plaintiff by counsel,

Date: 01/26/2006

/s/ Andrew M. Fischer

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lockhart\oppmoplice stop